

Title 2. Administration
Division 2. Financial Operations
Chapter 3. Department of General Services
Subchapter 4. Office of Public School Construction
Group 1. State Allocation Board
Subgroup 5.8. Regulations Relating to the California Preschool, Transitional Kindergarten and Full-Day Kindergarten
Facilities Grant Program

Article 1. California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program

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Amend Regulation Section 1860.2

Section 1860.2. Definitions.

For the purpose of these Subgroup 5.8 regulations, the terms set forth below shall have the following meanings:

“Application” means a request pursuant to the Program to apply for grant funding for a school project.

“Apportionment” means a reservation of funds by the Board for the purpose of funding Approved Applications for New Construction or Retrofit to an applicant school district.

“Approved Application” means a School District has submitted a Form SAB 70-01 and all documents to the Office of Public School Construction (OPSC) that are required to be submitted with the Form SAB 70-01 as identified in the Specific Instructions Section of Form SAB 70-01.

“Board” means the State Allocation Board as established by Section 15490 of the Government Code.

“CALPADS” means the enrollment information provided through the California Longitudinal Pupil Achievement Data System data as reported to the California Department of Education.

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“Form SAB 70-01” means the *Application for Funding*, Form SAB 70-01 (Rev. 0409/22), which is incorporated by reference.

“Form SAB 70-02” means the *Fund Release Authorization*, Form SAB 70-02 (Rev. 01/22), which is incorporated by reference.

“Form SAB 70-03” means the *Expenditure Report*, Form SAB 70-03 (Rev. 0409/22), which is incorporated by reference.

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“School District shall have the meaning set forth in Education Code Sections 81 through 87, inclusive. “School District” shall not include county offices of education, charter schools, joint powers authorities, or the State Department of Education. For preschool facilities grants only, “school district” includes county offices of education, or a community college district that operates a preschool program on behalf of, or in lieu of, a school district or county office of education.

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Note: Authority cited: Sections 17280 and 17375, Education Code.

Reference: Sections 17280 and 17375, Education Code; and Section 1771.5, Labor Code.

Amend Regulation Section 1860.3

Section 1860.3. General.

A School District seeking funding for a new construction or retrofit project pursuant to the provisions of Education Code Section 17375 shall complete and file with OPSC, the Form SAB 70-01 and all necessary documents, as defined by Approved Applications.

- (a) Assembly Bill 1808 created the Program, effective June 27, 2018, and allocated \$100 million to provide one-time grants as specified in EC Section 17375 and Program regulations. New Construction Grant and Retrofit Grant funding may be provided for a project if the district entered into a construction contract for that project on or after June 27, 2018.

- (b) The Program is revised through Assembly Bill 130, effective July 9, 2021, which makes \$490 million available to provide one-time grants as specified in EC Section 17375. The Board shall only provide funding if construction contracts, for the construction or retrofit of the classrooms in a full-day kindergarten project, were signed on or after July 1, 2018. The Board shall only provide funding if construction contracts, for the construction or retrofit of the classrooms in a preschool or transitional kindergarten project, were signed on or after July 1, 2021.
- (c) The Program is amended under Assembly Bill 181, effective June 30, 2022, and allocated an additional \$100 million to the Program. Subject to Legislature appropriation, an additional \$550 million is allocated to the Program in the 2023/2024 fiscal year.

Note: Authority cited: Section 17375(h), Education Code.

Reference: Section 17375(h), Education Code.

Amend Regulation Section 1860.4

Section 1860.4. Funding Guidelines

- (a) For the funding provided pursuant to Section 1860.3(a), funds available for the Program from the 2018-2019 Budget Act must be encumbered by the Board by June 30, 2021. Funds that are not completely encumbered or that return to the Program through project rescissions may be applied as follows:
- (1) Any funds that return on or before June 30, 2021, shall be returned to the Full-Day Kindergarten Facilities Grant Program Account and may be used to provide additional Apportionments.
 - (2) Any funds that return, or remain unencumbered by the Board, after June 30, 2021, shall be returned to the General Fund.
- (b) For the funding provided pursuant to Section 1860.3(b), funds available for the Program from the 2021-22 Budget Act must be encumbered by the Board by June 30, 2024. Funds that are not completely encumbered or that return to the Program through project rescissions may be applied as follows:
- (1) Any funds that return on or before June 30, 2024, shall be returned to the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program Account and may be used to provide additional Apportionments.
 - (2) Any funds that return or remain unencumbered by the Board, after June 30, 2024, shall be returned to the General Fund.
- (c) For the funding provided pursuant to Section 1860.3(c), funds available for the Program from the 2022-23 Budget Act must be encumbered by the Board by June 30, 2025. Funds that are not completely encumbered or that return to the Program through project rescissions may be applied as follows:
- (1) Any funds that return on or before June 30, 2025, shall be returned to the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program Account and may be used to provide additional Apportionments.
 - (2) Any funds that are returned and remain unencumbered by the Board, after June 30, 2025, shall be returned to the General Fund.
- (d) For the funding provided pursuant to Section 1860.3(c), funds available for the Program from the 2023-24 Budget Act must be encumbered by the Board by June 30, 2026. Funds that are not completely encumbered or that return to the Program through project rescissions may be applied as follows:
- (1) Any funds that return on or before June 30, 2026, shall be returned to the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program Account and may be used to provide additional Apportionments.
 - (2) Any funds that are returned and remain unencumbered by the Board, after June 30, 2026, shall be returned to the General Fund.
- ~~(e)~~ (e) New school facilities built in accordance with the Program shall not be included in the eligibility determination used for the purposes of the School Facilities Program pursuant to EC Section 17071.25.
- ~~(d)~~ (f) A school district shall not use Program funds to purchase, or install, Portable Classrooms.

Note: Authority cited: Sections 17375, Education Code; and Sections 16304 and 16304.1, Government Code.

Reference: Section 17375, Education Code.

Section 1860.5. Full-Day Kindergarten Program Eligibility Criteria.

- (a) For Full-Day Kindergarten Program funds provided pursuant to Sections 1860.3, a School District may apply for funding made available pursuant to EC Section 17375 by submittal of a Form SAB 70-01, if all of the following requirements are met:

- (1) The School District has a school board resolution providing approval to provide full-day kindergarten instruction at the project school site or will have approval to provide full-day kindergarten instruction at the completion of the project.
- (2) The School District lacks the facilities to provide full-day kindergarten instruction at the project school site.

A project school site will be considered lacking full-day kindergarten facilities if the current kindergarten enrollment exceeds the existing kindergarten classroom capacity prior to the construction of the project. Classrooms constructed as kindergarten classrooms or altered to house kindergarten students, regardless of current use, will be included when determining the existing kindergarten classroom capacity, as determined by CDE. For purposes of determining classroom capacity, a loading standard of 25 kindergarten pupils per classroom will be used and all kindergarten classrooms will be loaded for full-day instruction unless the School District indicates that an existing classroom(s) will continue to be used for non-full-day instruction at the completion of the project.

- (b) OPSC shall consult with CDE prior to determination of the Approved Application's need for funding based on the schoolsite's enrollment pattern.
- (c) The Approved Application shall include the following documentation:
 - (1) A description of the proposed project including, but not limited to, the following information:
 - (A) The total number of preschool, transitional kindergarten, and kindergarten classrooms on the site prior to the Program project.
 - (B) The current enrollment at the site using California Longitudinal Pupil Achievement Data System data as reported to the California Department of Education (CALPADS), at the time of application submittal, pursuant to EC Section 48000. To determine the appropriate enrollment reporting year, refer to the following:

OPSC Received Date of Form SAB 70-01	Enrollment Reporting Year
July 1 through October 31	Submit Prior Fiscal Year Enrollment Data
November 1 through June 30	Submit Current Fiscal Year Enrollment Data

- (C) The enrollment at the site for the three years immediately preceding the enrollment reporting year determined in Section 1860.5(c)(1)(B).
- (D) The total number of preschool, transitional kindergarten, and kindergarten classrooms on the site after the completion of the Program project.
- (E) The total number of kindergarten classrooms that will be used for full-day kindergarten instruction after the completion of the Program project.
- (2) Site map that includes labelling of all facilities and their current use, identifies all classrooms constructed or previously retrofitted to house kindergarten students, and identifies any facilities that will be retrofitted in the project. If a School District is requesting a 50-year old utilities grant, identify the age of the building(s).
- (d) Program funding must construct or retrofit facilities that result in classroom(s) that meets the design requirements required for new kindergarten classrooms as specified in paragraph (2) of subdivision (h) of Section 14030 of Title 5 of the California Code of Regulations.
 - (1) For new construction projects, classrooms must be not less than 1,350 square feet, including restrooms, storage, teacher preparation, wet and dry areas.
 - (2) For retrofit projects, classrooms must not be less than 1,350 square feet, including restrooms, storage, teacher preparation, wet and dry areas unless both of the following are met:
 - (A) The project qualifies for an exemption through CDE pursuant to Title 5, Section 14030(r) of the California Code of Regulations to retrofit a classroom that will be less than 1,350 square feet.
 - (B) The classroom shall not be less than 1,250 square feet.

Note: Authority cited: Sections 17375(a) and 17375(b), Education Code.

Reference: Sections 17375(a), 17375(b), and 17375(h), Education Code.

Section 1860.5.1. Transitional Kindergarten Program Eligibility Criteria.

- (a) For Program funds provided pursuant to Section 1860.3(b), a School District may apply for Transitional Kindergarten funds made available pursuant to EC Section 17375 by submittal of a Form SAB 70-01, if all of the following requirements are met:
 - (1) The School District has a school board resolution providing approval to provide full-day transitional kindergarten instruction on or after July 9, 2021.
 - (2) The School District lacks the facilities to provide full-day transitional kindergarten instruction at the project school site. A project school site will be considered lacking transitional kindergarten facilities if the calculated transitional kindergarten need, exceeds the existing transitional kindergarten classroom capacity prior to the construction of the project.
 - (3) The maximum calculated transitional kindergarten need shall be determined by one of the following:
 - (A) Calculating the mean of the first grade, second grade, and third grade enrollment at the time of application submittal. The mean shall be rounded up to the nearest whole number.
 - (B) Calculating the mean of the transitional kindergarten enrollment at the time of application plus two prior enrollment years. The mean shall be rounded up to the nearest whole number.
 - (4) Classrooms constructed as kindergarten or transitional kindergarten classrooms or altered to house kindergarten students, regardless of current use, will be included when determining the existing kindergarten and transitional kindergarten classroom capacity, as determined by CDE. For purposes of determining classroom capacity, a loading standard of 25 kindergarten pupils per classroom will be used and all transitional kindergarten classrooms will be loaded for full-day instruction unless the School District indicates that an existing classroom(s) will continue to be used for non-full-day instruction at the completion of the project.
- (5) The School District will use Program funds to offer or expand its full-day Transitional Kindergarten Program.
- (b) OPSC shall consult with CDE prior to determination of the Approved Application's need for funding based on the schoolsite's enrollment pattern.
- (c) The Approved Application shall include the following documentation:
 - (1) A description of the proposed project including, but not limited to, the following information:
 - (A) The total number of preschool, transitional kindergarten, and kindergarten classrooms on the site prior to the Program project.
 - (B) The current enrollment at the site using California Longitudinal Pupil Achievement Data System data as reported to the California Department of Education, at the time of application submittal, including transitional kindergarten students pursuant to EC Section 48000. To determine the appropriate enrollment reporting year, refer to the following:

OPSC Received Date of Form SAB 70-01	Enrollment Reporting Year
July 1 through October 31	Submit Prior Fiscal Year Enrollment Data
November 1 through June 30	Submit Current Fiscal Year Enrollment Data

- (C) The enrollment at the site for the three years immediately preceding the enrollment reporting year determined in Section 1860.5.1(c)(1)(B).
- (D) The total number of preschool, transitional kindergarten, and kindergarten classrooms on the site after the completion of the Program project.
- (E) The total number of preschool, transitional kindergarten, and kindergarten classrooms that will be used for full-day transitional kindergarten instruction after the completion of the Program project.
- (F) Site map that includes labelling of all facilities and their current use, identifies all classrooms constructed or previously retrofitted to house preschool, transitional kindergarten, and kindergarten students, and identifies any facilities that will be retrofitted in the project. If a School District is requesting a 50-year old utilities grant, identify the age of the building(s).
- (G) Program funding must construct or retrofit facilities that result in classroom(s) that meets the design requirements required for new kindergarten classrooms as specified in paragraph (2) of subdivision (h) of Section 14030 of Title 5 of the California Code of Regulations.
- (1) For new construction projects, classrooms must be not less than 1,350 square feet, including restrooms, storage, teacher preparation, wet and dry areas.

- (2) For retrofit projects, classrooms must not be less than 1,350 square feet, including restrooms, storage, teacher preparation, wet and dry areas unless both of the following are met:
- (A) The project qualifies for an exemption through CDE pursuant to Title 5, Section 14030(r) of the California Code of Regulations to retrofit a classroom that will be less than 1,350 square feet.
- (B) The classroom shall not be less than 1,250 square feet.

Note: Authority cited: Sections 17375(a) and 17375(b), Education Code.

Reference: Sections 17375(a), 17375(b), and 17375(h), Education Code.

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Amend Regulation Section 1860.6

Section 1860.6. Application Submittals.

The Board shall accept Approved Applications for Program funding during specified funding rounds:

- (a) Approved Applications for Program funding for the first funding round must be received by OPSC on or after January 2, 2019, and on or before January 31, 2019. Applications that do not receive an Apportionment during this round will be returned to the School District.
- (b) Approved Applications for Program funding for the second funding round must be received by OPSC on or after May 1, 2019, and on or before May 30, 2019. Applications that do not receive an Apportionment during this round will be returned to the School District.
- (c) Approved Applications for Program funding for the third funding round must be received by OPSC on or after April 1, 2022, and on or before April 30, 2022. Applications during this round will be retained until December 31, 2022. Applications that do not receive an Apportionment by December 31, 2022, will not be processed.
- (d) Approved Applications for Program funding for the fourth funding round must be received by OPSC on or after February 1, 2023 ~~April 1, 2023~~ and on or before March 2, 2023 ~~April 30, 2023~~. Applications during this round will be retained until the earlier of June 30, 2024, or the next funding round. Applications that do not receive an Apportionment by June 30, 2024, will not be processed.
- (e) Additional filing rounds may be established by the SAB as necessary. ~~Applications that do not receive an Apportionment by June 30, 2024, will not be processed.~~

Note: Authority cited: Section 17375(h), Education Code.

Reference: Section 17375(h), Education Code.

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Amend Regulation Section 1860.14

Section 1860.14. Hardship Assistance and Financial Hardship

A School District shall qualify for hardship assistance by demonstrating a Financial Hardship, as provided in this Section, which prevents the School District from funding all or a portion of the matching share requirement for a Program grant.

A School District is eligible for a financial hardship grant to fund all or a portion of its matching share requirement after demonstrating the requirements of subsections (a), (b), and (c) below:

- (a) The School District has made all reasonable efforts to fund its matching share of the project by demonstrating it is levying the developer fee justified under law or an alternative revenue source equal to or greater than the developer fee otherwise justified under law at the time of request for hardship and the School District meets at least one of the following:
 - (1) The current outstanding bonded indebtedness of the School District, issued for the purpose of constructing school facilities at the time of request for financial hardship status, is at least 60 percent of the District's total bonding capacity. Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos Bonds, School Facility Improvement District Bonds and certificates of participation which the district is paying a debt service that was issued for capital outlay school facility purposes.

- (2) The School District had a successful registered voter bond election for at least the maximum amount allowed under Proposition 39 within the previous two years from the date of request for financial hardship status. The proceeds from the bond election that represent the maximum amount allowed under the provisions of Proposition 39 must be used to fund the School District's matching share requirement for the Program project(s).
 - (3) The School District's total bonding capacity at the time of the request for financial hardship status is \$5 million or less
 - (4) ~~Other evidence of reasonable effort as approved by the SAB, such as a district's inability to pass local bonds, health and safety projects, and the instability of a district's fiscal situation. It is a County Superintendent of Schools.~~
- (b) The School District is financially unable to provide all necessary matching funds for an eligible project. To determine this, an analysis shall be made of the School District's financial records by OPSC including data and records maintained by the CDE and the County Office of Education. The analysis shall consist of a review of the School District's latest Independent Audit regarding funds available from all capital facility accounts, such as bridge financing, developer fees, funds generated from capital facility certificates of participation, federal grants, redevelopment funds and sale proceeds from surplus property, the appraised value of facilities approved for replacement, and bond funds either encumbered, unencumbered or authorized but unsold. All funds thus identified that have not been expended or encumbered by a contractual agreement for a specific capital outlay purpose prior to the initial request for financial hardship status shall be deemed available as a matching contribution.

After the initial request for financial hardship status is granted, no further encumbrances will be approved by OPSC and all prospective revenue made available to the School District's capital facility accounts shall be deemed available as matching contribution on the subsequent financial hardship review, with the exception of:

- (1) Approved interim housing expenditures.
 - (2) Funding to pay for previously recognized multi-year encumbrances approved at the initial financial hardship approval.
- (c) If the School District meets the financial hardship requirements in this Section, the amount of financial hardship is equal to the School District's matching share less funds deemed available in (b).
- (1) Once a School District has been notified that OPSC is scheduled to begin processing the School District's Form SAB 70-01, the School District must submit documentation to support the Financial Hardship request within 30 calendar days.
 - (2) If the School District does not submit documentation within 30 calendar days, the School District will be ineligible to receive a Financial Hardship grant for their project(s) and preference points as provided in Section 1860.15.

Note: Authority cited: Section 17375(b)(2)(A), 17375(b), Education Code.

Reference: Sections 17075.10 and 17070.15, Education Code.

Amend Regulation Section 1860.15

Section 1860.15. Application Funding Criteria.

If the estimated total Apportionments of all Approved Applications received within a funding round specified in Section 1860.6 exceed the funds available in that funding round, OPSC will calculate preference points for all Approved Applications. An Approved Application shall receive preference points based on the total of (a) and (b) up to a maximum of 80 points, as follows:

- (a) Financial Hardship: 40 points if a School District demonstrates it meets the requirements under Section 1860.14.
- (b) Low Income: Up to 40 points based on the percentage of pupils at the School District meeting the definition of Low Income.
- (1) Community Colleges applying for preschool classroom grants shall base Low Income on the School District's percentage of students eligible for free and reduced price meals that the site resides in.
- (2) The following sliding scale shall be used to determine the number of preference points:

Percentage Eligible for Free and Reduced Price School Meals	Preference Points Assigned
60-65%	4
66-70%	8
71-75%	15
76%	16

77%	17
78%	18
79%	19
80%	20
81%	21
82%	22
83%	23
84%	24
85%	25
86%	26
87%	27
88%	28
89%	29
90%	30
91%	31
92%	32
93%	33
94%	34
95%	35
96%	36
97%	37
98%	38
99%	39
100%	40

- (c) The Board shall apportion projects in the following order:
- (1) School Districts will be funded based on the total preference points, determined by the sum of subdivisions (a) and (b) above. If School Districts submit multiple applications in the same funding round, OPSC will use the priority order assigned to each application by the School Districts on the Form SAB 70-01 and then fund Approved Applications in the following order:
 - (A) School Districts shall have their first priority projects funded in order based on total preference points until all School Districts have had their first priority project funded, or until all funds are exhausted for that funding round, whichever comes first.
 - (B) School Districts with the same total preference points will be funded in order of the higher Low Income percentage reported to one decimal place. The School District with the higher Low Income percentage will be funded first.
 - (C) If School Districts have the same total preference points and the same Low Income percentage reported to one decimal place, projects will then be placed into a lottery system to determine the School District funding order.
 - (2) If sufficient funding remains after funding first priority projects pursuant to 1860.15(c)(1)(A), School Districts with multiple Approved Applications will be funded in the following order:
 - (A) The School District with the highest total preference points shall have their remaining projects funded in priority order until all projects are funded, or until all funds are exhausted for that funding round, whichever comes first. Funding shall then be provided to the School District with the next highest total preference points.
 - (B) A tie breaker will be used for School Districts with the same total preference points by using the exact Low Income percentage to one decimal place, as identified in the most recent Free and Reduced Price School Meals data on file at the CDE. The School District with the higher Low Income percentage will be funded first.
 - (C) If School Districts with the same total preference points are still tied after the review of the Low Income percentages, projects will be placed into a lottery system to determine School District funding order. The highest remaining priority project for each School District participating in the lottery will be funded until all projects from each School District participating in the same lottery round have been funded, or until all funds are exhausted for that funding round, whichever comes first.
 - (1) If the Board does not have sufficient funding to fully apportion a School District's Approved Application, that School District may elect to either:
 - (A) Accept partial funding for the project. If partial funding is accepted, the Apportionment shall become the full and final apportionment for the project.
 - (B) Decline to accept funding for the project. If partial funding is declined, the Board may offer partial funding to the next

Approved Application, based on funding order determined in (c)(1) and (c)(2) above.

Note: Authority cited: Sections 17375(b)(2) and 17375(h), Education Code.

Reference: Sections 17075.10, 17075.15, 17375(b)(2), 17375(b)(2)(A), 17375(b)(2)(B), 17375(h) and 42238.01(a), Education Code.

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Amend Regulation Section 1860.19

Section 1860.19. Project Savings and Unexpended Funds.

- (a) For the funding provided pursuant to Section 1860.3(a) School Districts must meet the following requirements for Project Savings and Unexpended Funds:
 - (1) Project Savings - With the exception of School Districts that receive Financial Hardship funding, a School District may expend or encumber the savings, and interest earned on State funds, on other high priority capital facility needs of the School District. Any savings not expended or encumbered after one year from the completion of the project, as specified in Section 1860.18, must be returned to the State.
 - (2) Unexpended Funds - For a project that receives a Financial Hardship grant, any funding not expended or encumbered on eligible project expenditures prior to completion of the project, as specified in Section 1860.18, must be returned to the State.
 - (A) Any interest earned on State funds for a project that received Financial Hardship grant funding, that is not expended or encumbered on eligible project expenditures prior to completion of the project, as specified in Section 1860.18, must be returned to the State.
 - (B) A School District is only required to return unexpended or unencumbered funds up to the amount of Financial Hardship grant funding provided by the Board.
- (b) For the funding provided pursuant to Section 1860.3(b) and 1860.3(c) all School Districts may expend or encumber the savings, and interest earned on State funds, as follows:
 - (1) Professional development to build capacity for the implementation of a California state preschool program, transitional kindergarten program or a full-day kindergarten program for the classrooms included in the project.
 - (2) Instruction materials to build capacity for the implementation of a California state preschool program, transitional kindergarten program or a full-day kindergarten program for the classrooms included in the project.
 - (3) Other high priority capital facility needs of the School District, that are allowable expenditures in accordance to the Grant Agreement.
 - (4) Any savings, including interest, unexpended or unencumbered after one year from the completion of the project, as specified in Section 1860.18, must be returned to the State.

Note: Authority cited: Sections 17375(a) and 17375(h), Education Code.

Reference: Sections 17375(a), 17375(b)(3), 17375(b)(4) and 17375(h), Education Code.